

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MINNESOTA

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IN RE:

Malinda Swalboski,

Debtor(s).

Case No: 13-41928

Chapter 13

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**NOTICE OF HEARING ON  
PRE-CONFIRMATION MODIFIED PLAN**

Please take notice that a hearing on the pre-confirmation modified plan filed on May 31, 2013, will be presented to the court for confirmation on July 2, 2013, at 10:30 a.m. at U S Court Courtroom 7 West, 300 S 4<sup>th</sup> Street Minneapolis, MN 55415.

Dated this 31st day of May 2013.

HELLER & THYEN, P.A.

/s/ Robert S. Thyen  
Robert S. Thyen  
Attorney for Debtor  
606 25th Avenue South, Suite 110  
St. Cloud, MN 56301  
320-654-8000

**IN RE:**  
Swalboski, Malinda Jane

Debtor(s)

Case No. 13-41928  
 Chapter 13

### **MODIFIED CHAPTER 13 PLAN**

Dated: May 31, 2013.

#### **1. PAYMENTS BY DEBTOR TO TRUSTEE –**

- a. As of the date of this plan, the debtor has paid the trustee \$ 575.00.
- b. After the date of this plan, the debtor will pay the trustee \$ 575.00 per month for 59 months, beginning June 2013 for a total of \$ 33,925.00. The minimum plan length is [ ] 36 or [X] 60 months from the date of the initial plan payment unless all allowed claims are paid in a shorter time.
- c. The debtor will also pay the trustee: n/a
- d. The debtor will pay the trustee a total of \$ 34,500.00 [line 1(a) + line 1(b) + line 1(c)].

**2. PAYMENTS BY TRUSTEE –** The trustee will pay from available funds only creditors for which proofs of claim have been filed. The trustee may collect a fee of up to 10% of plan payments, or \$ 3,450.00, [line 1(d) x .10].

**3. ADEQUATE PROTECTION PAYMENTS [§ 1326(a)(1)(C)] –** The trustee will promptly pay from available funds adequate protection payments to creditors holding allowed claims secured by personal property, according to the following schedule, beginning in month one (1).

Creditor	Number Monthly Payment	Number of Months	TOTAL PAYMENTS
<b>None</b>			
<b>TOTAL</b>			<b>0.00</b>

**4. EXECUTORY CONTRACTS AND UNEXPIRED LEASES [§ 365] –** The debtor assumes the following executory contracts or unexpired leases. Cure provisions, if any, are set forth in ¶ 7.

Creditor	Description of Property
<b>Verizon Wireless</b>	<b>2 Year Cell Phone Contract expires 6/2014</b>
<b>Eugene Fisk</b>	<b>Residential Lease- Month-to-Month</b>

**5. CLAIMS NOT IN DEFAULT –** Payments on the following claims are current and the debtor will pay the payments that come due after the date the petition was filed directly to the creditors. The creditors will retain liens, if any.

Creditor	Description of Claim
<b>None</b>	

**6. HOME MORTGAGES IN DEFAULT [§ 1322(b)(5) and § 1322(e)] –** The trustee will cure defaults on the following claims secured only by a security interest in real property that is the debtor's principal residence. The debtor will pay the payments that come due after the date the petition was filed directly to the creditors. The creditors will retain liens. All following entries are estimates. The trustee will pay the actual amounts of default.

Creditor	Amount of Default	Beginning Monthly Payment	Number in Month #	Number of Payments	TOTAL PAYMENTS
<b>None</b>					
<b>TOTAL</b>					<b>0.00</b>

**7. CLAIMS IN DEFAULT [§ 1322 (b)(3) and (5) and § 1322(e)] –** The trustee will cure defaults on the following claims as set forth below. The debtor will pay the payments that come due after the date the petition was filed directly to the creditors. The creditors will retain liens, if any. All following entries are estimates, except for interest rate.

Creditor	Amount of Default	Int. rate (if any)	Beginning Monthly Payment	Number in Month #	Number of Payments	TOTAL PAYMENTS
<b>None</b>						
<b>TOTAL</b>						<b>0.00</b>

**8. OTHER SECURED CLAIMS; SECURED CLAIM AMOUNT IN PLAN CONTROLS [§ 1325(a)(5)]** – The trustee will pay, on account of the following allowed secured claims, the amount set forth in the “Total Payments” column, below. The creditors will retain liens securing the allowed secured claims until the earlier of the payment of the underlying debt determined under nonbankruptcy law, or the date of the debtor's discharge. NOTWITHSTANDING A CREDITOR'S PROOF OF CLAIM FILED BEFORE OR AFTER CONFIRMATION, THE AMOUNT LISTED IN THIS PARAGRAPH AS A CREDITOR'S SECURED CLAIM BINDS THE CREDITOR PURSUANT TO 11 U.S.C. § 1327, AND CONFIRMATION OF THE PLAN IS A DETERMINATION OF THE CREDITOR'S ALLOWED SECURED CLAIM.

Creditor	Claim Amount	Secured Claim	Int. Rate	Beginning in Month #	Monthly Payment	Number of Payments	Payments on Account of Claim	Adequate Protection from ¶ 3	TOTAL PAYMENTS
<b>None</b>									
<b>TOTAL</b>									<b>0.00</b>

**9. PRIORITY CLAIMS** – The trustee will pay in full all claims entitled to priority under § 507, including the following. The amounts listed are estimates. The trustee will pay the amounts actually allowed.

Creditor	Estimate Claim	Monthly Payment	Beginning in Month #	Number of Payments	TOTAL PAYMENTS
<b>Heller &amp; Thyen, P.A.</b>	<b>3,000.00</b>	<b>250.00</b>	<b>1</b>	<b>12</b>	<b>3,000.00</b>
<b>IRS</b>	<b>18,356.91</b>	<b>407.94</b>	<b>13</b>	<b>45</b>	<b>18,356.91</b>
<b>MN Department Of Revenue, Collection Div</b>	<b>691.00</b>	<b>115.17</b>	<b>1</b>	<b>6</b>	<b>691.00</b>
<b>TOTAL</b>					<b>22,047.91</b>

**10. SEPARATE CLASSES OF UNSECURED CREDITORS** – In addition to the class of unsecured creditors specified in ¶ 11, there shall be separate classes of non-priority unsecured creditors described as follows:

The trustee will pay the allowed claims of the following creditors. All entries below are estimates.

Creditor	Int. Rate (if any)	Claim Amount	Monthly Payment	Beginning in Month #	Number of Payments	TOTAL PAYMENTS
<b>None</b>						
<b>TOTAL</b>						<b>0.00</b>

**11. TIMELY FILED UNSECURED CREDITORS** – The trustee will pay holders of nonpriority unsecured claims for which proofs of claim were timely filed the balance of all payments received by the trustee and not paid under ¶ 2, 3, 6, 7, 8, 9 and 10 their pro rata share of approximately \$ **9,002.09** [line 1(d) minus lines 2, 6(d), 7(d), 8(d), 9(f), and 10(c)].

- a. The debtor estimates that the total unsecured claims held by creditors listed in ¶ 8 are \$ **0.00**.
- b. The debtor estimates that the debtor's total unsecured claims (excluding those in ¶ 8 and ¶ 10) are \$ **171,782.00**.
- c. Total estimated unsecured claims are \$ **171,782.00** [line 11(a) + line 11(b)].

**12. TARDILY-FILED UNSECURED CREDITORS** – All money paid by the debtor to the trustee under ¶ 1, but not distributed by the trustee under ¶ 2, 3, 6, 7, 8, 9, 10, or 11 will be paid to holders of nonpriority unsecured claims for which proofs of claim were tardily filed.

**13. OTHER PROVISIONS** – The trustee may distribute additional sums not expressly provided for herein at the trustee's discretion.

National Student Loan and US Department of Education will receive a pro-rata share through the chapter 13 plan.

Gurstel Charge will return garnished funds within 10 business days after confirmation of the plan.

The debtor shall provide the trustee with copies of her state and federal tax returns annually. They shall be entitled to retain \$1,200 of the combined net state and federal tax refunds (excluding any earned income credit), and the balance shall be paid to the trustee as an additional plan payment.

The debtor will file as and when due any and all post-petition federal tax returns of any kind; and will timely pay as and when due, any and all post-petition federal tax liabilities of any kind. Debtors failure to file as and when due any and all post-petition federal tax returns of any kind; or failure to timely pay as and when due any and all

post-petition federal tax liabilities of any kind, will constitute grounds for dismissal.

Pursuant to 11 U.S.C. Section 1305, a proof of claim may be filed by any entity that holds a claim against the debtor(s) for taxes that become payable to a governmental unit while the case is pending. The trustee shall only pay 11 U.S.C. Section 1305 claims attributable to the taxable year in which the case concerning such debtor(s) was filed, and only to the extent funds are available.

As to the claims dealt with in paragraphs 5, 6, 7, and 8, in the event of the surrender, foreclosure, repossession, or return of the collateral to the creditor for any reason, the balance of the claim, if any, will be paid as an unsecured claim, discharged by the discharge granted pursuant to 11 USC 1328.

The debtor(s) shall not oppose any creditor claiming a purchase money security interest in and to household furnishings, from availing itself of its legal remedies under the Bankruptcy Code, namely, the submission of an application for relief from stay under 11 U.S.C. Sec. 362. Upon appropriate court order regarding relief from the automatic stay provisions of 11 U.S.C. Sec. 362, the debtor(s) shall not oppose a creditor from availing itself of any applicable state law remedies it believes are available for purposes of reclaiming the household furnishings. Upon appropriate order from the Hennepin County Court, the debtor shall surrender the household furnishings to a creditor in compliance with such Hennepin County Court Order, if any.

In the event of that any secured creditor is granted stay relief and or the surrender, repossession, or return of the collateral to the creditor for any reason, the balance of the claim, if any, will be paid as an unsecured non-priority claim in accordance with non-bankruptcy law, dischargeable upon completion of this Chapter 13 plan.

#### **14. SUMMARY OF PAYMENTS –**

Trustee's Fee [Line2]	\$	<b>3,450.00</b>
Home Mortgage Defaults [Line 6(d)]	\$	<b>0.00</b>
Claims in Default [Line 8(d)]	\$	<b>0.00</b>
Other Secured Claims [Line 8(d)]	\$	<b>0.00</b>
Priority Claims [Line 9(f)]	\$	<b>22,047.91</b>
Separate Classes [Line 10(c)]	\$	<b>0.00</b>
Unsecured Creditors [Line 11]	\$	<b>9,002.09</b>
TOTAL [must equal Line 1(d)]	\$	<b>34,500.00</b>

Robert S Thyen 032288x  
 Heller & Thyen, P.A.  
 606 25th Ave S #110  
 St. Cloud, MN 56301-4810

Signed: /s/ Malinda Jane Swalboski \_\_\_\_\_  
 DEBTOR

Signed: \_\_\_\_\_  
 DEBTOR (if joint case)

United States Bankruptcy Court  
District of Minnesota

IN RE:

Swalboski, Malinda Jane

Debtor(s)

SIGNATURE DECLARATION

Case No. 13-41928

- PETITION, SCHEDULES & STATEMENTS  
 CHAPTER 13 PLAN  
 SCHEDULES AND STATEMENTS ACCOMPANYING VERIFIED CONVERSION  
 AMENDMENT TO PETITION, SCHEDULES & STATEMENTS  
 MODIFIED CHAPTER 13 PLAN  
 OTHER (Please describe: )

I [We], the undersigned debtor(s) or authorized representative of the debtor, make the following declarations under penalty of perjury:

- The information I have given my attorney and provided in the electronically filed petition, statements, schedules, amendments, and/or chapter 13 plan, as indicated above, is true and correct;
- The information provided in the "Debtor Information Pages" submitted as a part of the electronic commencement of the above-referenced case is true and correct;
- [individual debtors only] If no Social Security Number is included in the "Debtor Information Pages" submitted as a part of the electronic commencement of the above-referenced case, it is because I do not have a Social Security Number;
- I consent to my attorney electronically filing with the United States Bankruptcy Court my petition, statements and schedules, amendments, and/or chapter 13 plan, as indicated above, together with a scanned image of this Signature Declaration and the completed "Debtor Information Pages," if applicable; and
- [corporate and partnership debtors only] I have been authorized to file this petition on behalf of the debtor.

Date: 5/31/13

X  
Signature of Debtor or Authorized Representative

X  
Signature of Joint Debtor

Swalboski, Malinda Jane

Printed Name of Debtor or Authorized Representative

Printed Name of Joint Debtor

1 Heller & Thyen P.A.  
2 Robert S. Thyen  
3 606 25th Avenue S Ste 110  
St. Cloud, MN 56301  
320 654-8000

Judge:  
Hearing Location:  
Hearing Date:  
Hearing Time:  
Response Date:

DATE RECEIVED: May 31, 2013

TIME RECEIVED: 08:30AM

TOTAL SERVED: 31

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

IN RE: Malinda Swalboski

CASE NO: 13-41928

CERTIFICATE OF SERVICE

Chapter:

ECF Docket Reference No:

On Friday, May 31, 2013, a copy of the following documents, described below,

**Amended Service Letter**

**Pre-Confirmation Notice and Mod Plan**

**Signature Declaration**

were deposited for delivery by the United States Postal Service, via first class United States Mail, postage prepaid, first class, with sufficient postage thereon to the parties listed on the mailing list attached hereto and incorporated as though fully set forth herein.

The undersigned does hereby declare under penalty of perjury of the laws of the United States that I have served the above referenced document(s) on the above listed entities in the manner shown, and prepared the Certificate of Service and that it is true and correct to the best of my knowledge, information, and belief.

DATED: May 31, 2013

/s/ Igor Baranov

Igor Baranov  
BK Attorney Services, LLC  
d/b/a certificateofservice.com, for  
Robert S. Thyen  
606 25th Avenue S Ste 110  
St. Cloud, MN 56301  
320 654-8000

**Note:** The addresses on the attached mailing list were processed through the USPS Zip+4 validation database as well as the USPS National Change of Address Database (NCOA-link) in accordance with the USPS Domestic Mail Manual Rules. The delivery point zip code and carrier routing were imprinted on the mailpiece with an Intelligent Mail Barcode for faster and more reliable delivery.

Case 13-41928 Doc 12 Filed 05/31/13 Entered 05/31/13 11:53:30 Desc Main  
Label Matrix for local noticing Capital One, N.A. Minneapolis  
0864-4 Bass & Associates, P.C. 301 U.S. Courthouse  
Case 13-41928 3936 E. Ft. Lowell Rd, Suite #200 300 South Fourth Street  
District of Minnesota Tucson, AZ 85712-1083 Minneapolis, MN 55415-1320

Fri May 31 11:33:04 CDT 2013

AMERICAN DEBT COUNSELING  
14051 NW 14TH ST  
SUNRISE, FL 33323-2885

AMEX  
PO BOX 297871  
FORT LAUDERDALE, FL 33329-7871

BANK OF AMERICA  
PO BOX 982235  
EL PASO, TX 79998-2235

CAP1/POLRS  
PO BOX 30253  
SALT LAKE CITY, UT 84130-0253

CHASE  
P.O. BOX 15298  
WILMINGTON, DE 19850-5298

DEUTSCHE BANK  
60 WALL ST  
NEW YORK, NY 10005-2858

DISCOVER FIN SVCS LLC  
PO BOX 15316  
WILMINGTON, DE 19850-5316

Discover Bank  
DB Servicing Corporation  
PO Box 3025  
New Albany, OH 43054-3025

EUGENE FISK  
411 S 70TH AVE W  
DULUTH, MN 55807-1839

FIA CARD SERVICES, N.A.  
4161 Piedmont Parkway  
NC4 105 03 14  
Greensboro, NC 27410

GURSTEL CHARGO  
6681 COUNTRY CLUB DR  
GOLDEN VALLEY, MN 55427-4601  
  
MN DEPARTMENT OF REVENUE, COLLECTION DIV  
BANKRUPTCY SECTION  
PO BOX 64447  
SAINT PAUL, MN 55164-0447

IRS  
CENTRALIZED INSOLVENCY  
PO BOX 7346  
PHILADELPHIA, PA 19101-7346

MESSERLI & KRAMER  
3033 CAMPUS DR STE 250  
PLYMOUTH, MN 55441-2662

NATIONAL CREDIT SYSTEM  
3750 NATURALLY FRESH BLVD  
ATLANTA, GA 30349-2964

NATIONAL CREDIT SYSTEMS, INC  
PO BOX 312125  
ATLANTA GA 31131-2125

NATIONAL STUDENT LOAN  
1300 O ST  
LINCOLN, NE 68508-1511

NELNET ACADEMIC LOAN  
PO BOX 7401283  
ATLANTA, GA 30374

NELNET ACADEMIC LOAN  
PO BOX 740283  
ATLANTA, GA 30374-0283

OAK CREST APARTMENTS  
1639 COUNTY HIGHWAY 10  
MINNEAPOLIS, MN 55432-2202

OAK CREST APTS  
C/O NATIONAL CREDIT SYSTEMS INC  
PO BOX 312125  
ATLANTA GA 31131-2125

STATE OF MINNESOTA  
DEPARTMENT OF REVENUE  
BANKRUPTCY SECTION  
PO BOX 64447  
ST PAUL MN 55164 0447

TRUSTONE FIN  
6500 OLSON MEM HWY  
MPLS, MN 55427

TRUSTONE FINANCIAL CREDIT UNION  
PO BOX 1260  
MINNEAPOLIS MN 55440-1260

U S DEPT OF ED/GSL/ATL  
2505 S FINLEY RD  
LOMBARD, IL 60148-4867

US Trustee  
1015 US Courthouse  
300 S 4th St  
Minneapolis, MN 55415-3070

VERIZON WIRELESS  
PO BOX 25505  
LEHIGH VALLEY, PA 18002-5505

Jasmine Z Keller Case 13-41928 Doc 12 Filed 05/31/13 Entered 05/31/13 11:53:30 Desc Main  
12 S 6th St Ste 310 Malinda Jane Swaboski Robert S. Thyen  
Minneapolis, MN 55402-1521 Document Page 8 of 8 Heller & Thyen, P.A.  
4160 Yates Ave N 606 25th Ave South  
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End of Label Matrix

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